

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

MALACHI SAMUEL MARTINEZ §
VS. § CIVIL ACTION NO. 9:17cv17
TERRI HALL §

ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Malachi Samuel Martinez, an inmate at the Allred Unit, proceeding *pro se*, brought the above-styled lawsuit against Terri Hall, a grievance investigator at the Eastham Unit.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends this action be dismissed without prejudice pursuant to 28 U.S.C. as frivolous and for failure to state a claim upon which relief may be granted (docket entry no. 28).

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record and pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, the court concludes plaintiff's objections are without merit. For the reasons set forth in the Report, plaintiff's complaint is frivolous and fails to state a claim upon which relief may be granted. Plaintiff has failed to establish that the complained of incidents would not have occurred but for a retaliatory motive. *See Morris v. Powell*, 449 F.3d 682, 684 (5th Cir. 2006); *Woods v. Smith*, 60 F.3d 1161, 1166 (5th Cir. 1995). Plaintiff has failed to establish direct

evidence of motivation or allege a chronology of events from which retaliation any plausibly be inferred. *See Id.* Therefore, plaintiff's claims are frivolous and fail to state a claim upon which relief may be granted.

O R D E R

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

So **ORDERED** and **SIGNED** January 11, 2020.



Ron Clark, Senior District Judge